

## REMARKS

Applicants respectfully request entry of the enclosed amendments and reconsideration of this application. Currently, Claims 22-56 are pending. In an Office Action dated March 7, 2003, Claims 30-35, 39-46, 50, and 52-56 were withdrawn; Claims 22-24, 27-29, 49, and 51 were rejected; and Claims 25 and 26 were objected to.

### **Claim Rejections**

Claims 22-24, 27-30, 36-38, 47-49, and 51 were rejected as obvious over Miller ('829) in view of Breunig ('946). Remarks accompanying these rejections state that Miller discloses an elliptical exercise machine, except for means for height adjustment of the guide 32 shown in Miller Figure 5. Further remarks assert that this aspect is taught by Breunig by mechanism 44 and linkage 46 in order to provide different exercise resistances. Applicants respectfully disagree.

Claims 22-24, 27-30, 36-38, 47-49, and 51 recite an arrangement having a foot support that moves in a generally elliptical path of travel and an elevation system that alters the orientation of the user's foot, thereby permitting a change in the nominal orientation of the heel section of the foot support relative to the toe section of the foot support during use. Changing the inclination of the foot alters the resulting *type* of stepping motion of the user, e.g., cross-country skiing motion, walking, running, climbing, etc. See the specification at page 5, lines 21-27. A braking system 40 is available to impart a desired level of resistance and thus change the level of effort required by the user. See the specification at page 5, lines 27-13.

In contrast, Miller ('829) does not teach or suggest changing the inclination of the user's foot to simulate different types of motion. If anything, Miller discloses that it is directed only to simulating running and stepping motions, and that it is an improvement over skiing and stair

LAW OFFICES OF  
CHRISTENSEN O'CONNOR JOHNSON KINDNESS<sup>PLC</sup>  
1420 Fifth Avenue  
Suite 2800  
Seattle, Washington 98101  
206.682.8100

climbing devices. Column 1, lines 8-65. Miller uses a friction brake 34 associated with its flywheel 18 to increase the amount of resistance felt by the user. Column 3, lines 27-31.

Breunig teaches a support assembly 13 connected to a 4-bar linkage arrangement defined by stationary bars 17, 25, 24, and 43. The side tracks are positioned at an angle,  $\phi$ , relative to the ground. A post 44 is available to adjust this angle. A stated goal of Breunig is being able to varying the angle *without* varying the orientation of the user or support structure. Abstract; column 2, lines 8-18. To exercise, a user sits on the assembly 13 and pushes against their own weight to slide the support along tracks 24 and 25. Thus, varying the angle results in varying the resistance provided to the user, but not the *type* of exercise motion, per se, as in applicants' invention.

Applicants assert that combining Miller with Breunig would go against the stated goals of Breunig to maintain the orientation of the user and of translating both sides of its support assembly in unison. Thus, applicants' assert that this combination is improper for a valid showing of prima facie obviousness and respectfully request its withdrawal. Moreover, for the foregoing reasons, applicants also respectfully submit that there is no suggestion in either Miller or Breunig that their disclosures should or could be combined to render applicants' claims obvious.

### **Objected To Claims**

Since Claims 25 and 26 were not rejected, applicants assume they are allowable if rewritten in independent form. Applicants request verification of the same.

### **IDS**

Applicant has previously filed an Information Disclosure Statement in this matter, dated June 11, 2001. A copy of this filing is enclosed, along with a confirmation return postcard indicating that the Patent Office did receive applicants' IDS. Also included in the filing of this

LAW OFFICES OF  
CHRISTENSEN O'CONNOR JOHNSON KINDNESS<sup>PLLC</sup>  
1420 Fifth Avenue  
Suite 2800  
Seattle, Washington 98101  
206.682.8100

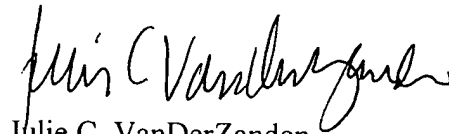
RCE is a Supplemental IDS. Applicants request the Examiner to consider all references cited to date, and to supply applicants with a signed copy of applicants' IDS submissions.

**Closing**

Applicants respectfully request reexamination of this application. If the Examiner has any questions or comments, a telephone call to applicants' representative below would be welcomed.

Respectfully submitted,

CHRISTENSEN O'CONNOR  
JOHNSON KINDNESS<sup>PLLC</sup>



Julie C. VanDerZanden  
Registration No. 38,105  
Direct Dial No. 206.695.1733

I hereby certify that this correspondence is being deposited with the U.S. Postal Service in a sealed envelope as first class mail with postage thereon fully prepaid and addressed to Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the below date.

Date: July 7, 2003

JCV:jcv

